

ASSEMBLY BILL

No. 2003

Introduced by Assembly Member Torres

February 23, 2012

An act to amend Section 21608.5 of the Business and Professions Code, relating to junk dealers and recyclers.

LEGISLATIVE COUNSEL'S DIGEST

AB 2003, as introduced, Torres. Junk dealers and recyclers: nonferrous materials: payment.

Existing law requires junk dealers and recyclers, as defined, to keep written records of all sales and purchases made in the course of their business. Existing law prohibits a junk dealer or a recycler from providing payment for nonferrous material, as defined, unless the payment is made by cash or check, the check is mailed or the cash or check is provided no earlier than 3 days after the date of sale, and other specified requirements are met.

This bill would allow payment for nonferrous materials by check only.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 21608.5 of the Business and Professions
- 2 Code is amended to read:
- 3 21608.5. (a) A junk dealer or recycler in this state shall not
- 4 provide payment for nonferrous material unless, in addition to

1 meeting the written record requirements of Sections 21605 and
2 21606, all of the following requirements are met:

3 (1) The payment for the material is made by ~~cash or check~~. The
4 ~~check may~~ *shall* be mailed to the seller at the address provided
5 pursuant to paragraph (3) ~~or the cash or check may be collected~~
6 ~~by the seller from the junk dealer or recycler on or after the third~~
7 ~~business day after the date of sale.~~

8 (2) At the time of sale, the junk dealer or recycler obtains a clear
9 photograph or video of the seller.

10 (3) (A) Except as provided in subparagraph (B), the junk dealer
11 or recycler obtains a copy of the valid driver's license of the seller
12 containing a photograph and an address of the seller or a copy of
13 a state or federal government-issued identification card containing
14 a photograph and an address of the seller.

15 (B) If the seller prefers to have the check for the material mailed
16 to an alternative address, other than a post office box, the junk
17 dealer or recycler shall obtain a copy of a driver's license or
18 identification card described in subparagraph (A), and a gas or
19 electric utility bill addressed to the seller at that alternative address
20 with a payment due date no more than two months prior to the
21 date of sale. For purposes of this paragraph, "alternative address"
22 means an address that is different from the address appearing on
23 the seller's driver's license or identification card.

24 (4) The junk dealer or recycler obtains a clear photograph or
25 video of the nonferrous material being purchased.

26 (5) The junk dealer or recycler shall preserve the information
27 obtained pursuant to this subdivision for a period of two years after
28 the date of sale.

29 (6) (A) The junk dealer or recycler obtains a thumbprint of the
30 seller, as prescribed by the Department of Justice. The junk dealer
31 or recycler shall keep this thumbprint with the information obtained
32 under this subdivision and shall preserve the thumbprint in either
33 hardcopy or electronic format for a period of two years after the
34 date of sale.

35 (B) Inspection or seizure of the thumbprint shall only be
36 performed by a peace officer acting within the scope of his or her
37 authority in response to a criminal search warrant signed by a
38 magistrate and served on the junk dealer or recycler by the peace
39 officer. Probable cause for the issuance of that warrant must be

1 based upon a theft specifically involving the transaction for which
2 the thumbprint was given.

3 (b) Paragraph (1) of subdivision (a) shall not apply if, during
4 any three-month period commencing on or after the effective date
5 of this section, the junk dealer or recycler completes five or more
6 separate transactions per month, on five or more separate days per
7 month, with the seller and, in order for paragraph (1) of subdivision
8 (a) to continue to be inapplicable, the seller must continue to
9 complete five or more separate transactions per month with the
10 junk dealer or recycler.

11 (c) This section shall not apply if, on the date of sale, the junk
12 dealer or recycler has on file or receives all of the following
13 information:

14 (1) The name, physical business address, and business telephone
15 number of the seller's business.

16 (2) The business license number or tax identification number
17 of the seller's business.

18 (3) A copy of the valid driver's license of the person delivering
19 the nonferrous material on behalf of the seller to the junk dealer
20 or the recycler.

21 (d) This section shall not apply to the redemption of nonferrous
22 material having a value of not more than twenty dollars (\$20) in
23 a single transaction, when the primary purpose of the transaction
24 is the redemption of beverage containers under the California
25 Beverage Container Recycling and Litter Reduction Act, as set
26 forth in Division 12.1 (commencing with Section 14500) of the
27 Public Resources Code.

28 (e) This section shall not apply to coin dealers or to automobile
29 dismantlers, as defined in Section 220 of the Vehicle Code.

30 (f) For the purposes of this section, "nonferrous material" means
31 copper, copper alloys, stainless steel, or aluminum, but does not
32 include beverage containers, as defined in Section 14505 of the
33 Public Resources Code, that are subject to a redemption payment
34 pursuant to Section 14560 of the Public Resources Code.

35 (g) This section is intended to occupy the entire field of law
36 related to junk dealer or recycler transactions involving nonferrous
37 material. However, a city or county ordinance, or a city and county
38 ordinance, relating to the subject matter of this section is not in
39 conflict with this section if the ordinance is passed by a two-thirds
40 vote and it can be demonstrated by clear and convincing evidence

- 1 that the ordinance is both necessary and addresses a unique problem
- 2 within and specific to the jurisdiction of the ordinance that cannot
- 3 effectively be addressed under this section.
- 4 (h) This section shall become operative on December 1, 2008.